




**June 1, 2020**

**To:** Regional Planning and Highways Committee

**From:** Darrell E. Johnson, Chief Executive Officer 

**Subject:** Measure M2 Eligibility Review Recommendations for Fiscal Year 2018-19 Expenditure Reports

### **Overview**

The Measure M2 Ordinance requires that all Orange County local agencies annually satisfy eligibility requirements in order to receive net Measure M2 revenues. As part of this requirement, fiscal year 2018-19 expenditure reports and resolutions were submitted by all local agencies. In May 2020, the Orange County Transportation Authority Taxpayer Oversight Committee affirmed that all expenditure reports were received and reviewed consistent with Measure M2 requirements. Board of Directors' approval is requested to find Orange County local agencies eligible to continue to receive net Measure M2 revenues.

### **Recommendations**

- A. Find all 35 Orange County local agencies eligible to receive net Measure M2 revenues.
- B. Direct staff to solicit from the City of Anaheim a restated fiscal year 2018-19 expenditure report to address miscategorized maintenance of effort expenditures identified in M2 Agreed Procedures Reports, Fiscal Year Ended 2019.

### **Background**

Local agencies are required to meet Measure M2 (M2) eligibility requirements and submit eligibility verification packages to the Orange County Local Transportation Authority (OCLTA) annually in order to remain eligible to receive M2 net revenues. There are 13 eligibility requirements, which local agencies must either meet and/or adhere to. However, not all 13 eligibility components require verification each eligibility cycle. For reference, a summary of M2 eligibility requirements and their respective due dates is provided in Attachment A.

Per the M2 Ordinance, the Taxpayer Oversight Committee (TOC) is responsible for the review of five of the 13 eligibility requirements<sup>1</sup>. These include the Congestion Management Program (CMP), Mitigation Fee Programs (MFP), Local Signal Synchronization Plans (LSSP), Pavement Management Plans (PMP), and Expenditure Reports (ER). The CMP, MFPs, LSSPs, and PMPs are due on June 30, 2020, and are typically approved by the OCTA Board of Directors (Board) in December. The ERs are due on December 31, 2020, six months after the close of the fiscal year (FY) and are typically approved by the Board in late spring. The ERs include all M2 and related transportation expenditures including maintenance of effort (MOE) spending levels. MOE is the amount the local jurisdiction's spending of discretionary funds (e.g., general fund revenues) for streets and roads purposes. The intent is to ensure that local jurisdictions do not replace discretionary transportation spending with M2 revenues.

In December 2019, the Board approved 33 local agencies as eligible to continue receiving M2 revenues. However, due to a previous finding of ineligibility, the Board only received and filed the initial eligibility packages for the cities of Santa Ana and Stanton. In April 2020, the Board reinstated the cities' eligibility to receive net M2 revenues and thereby placed these cities back on the same eligibility review cycle as all other local agencies.

Per the M2 Ordinance, the TOC is responsible for the receipt and review of ERs. To assist with this responsibility, the TOC has designated an Annual Eligibility Review (AER) Subcommittee to initially vet required M2 eligibility submittals prior to review by the TOC. Both the AER Subcommittee and TOC have now completed their respective reviews of these materials and their findings are discussed below.

### ***Discussion***

Due to the novel coronavirus (COVID-19) pandemic, the April 7, 2020 AER Subcommittee meeting was cancelled. However, in order to keep these final components of this FY's eligibility process moving, AER Subcommittee members were given eligibility review materials including FY 2018-19 ERs, resolutions, and review checklists to complete, sign, and return to OCTA. Upon receipt of these materials, AER Subcommittee members reviewed and confirmed that all 35 Orange County local agencies had submitted appropriate documentation to satisfy M2 eligibility ER requirements and made one audit recommendation.

On May 12, 2020, the TOC convened remotely and affirmed, consistent with the AER Subcommittee's conclusions, that they had received and reviewed the FY 2018-19 M2 ERs for all 35 local agencies consistent with M2 requirements. As such, the TOC's findings (Attachment B) are now being advanced to the Board for a final finding that all 35 Orange County local agencies be deemed eligible to continue to receive net M2 revenues.

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<sup>1</sup> Note: The other eight M2 eligibility components required are reviewed by OCTA.

Additionally, staff is recommending that OCTA solicit from the City of Anaheim (City) a restated FY 2018-19 ER. During a recent audit of local agencies' MOE expenditures, auditors found that the City had included ineligible MOE expenditures in its FY 2018-19 ER. When these expenditures were removed, the City fell below its minimum MOE requirement. When discussing this finding with the City, it became apparent that the City had expended sufficient MOE expenditures but had recorded the expenses against their M2 Local Fair Share (LFS) fund. As such, the City asked to restate their FY 2018-19 ER to replace the ineligible MOE expenditures with eligible MOE expenditures that were included as LFS expenditures. In restating these expenditures, the City would also transfer an equal amount of the ineligible MOE expenditures into the appropriate LFS categories. Given that this proposal places expenditures into correct categories, staff is supportive of the City's request and is requesting Board approval to proceed with this approach.

If the Board approves this approach and the recommendations described in the previous paragraphs, this will conclude the FY 2019-20 M2 eligibility process and will result in all Orange County local agencies being deemed fully eligible to continue to receive net M2 revenues.

### ***Summary***

In May 2020, the Orange County Transportation Authority Taxpayers Oversight Committee convened remotely and affirmed that they had received and reviewed the required Measure M2 expenditure reports for all 35 Orange County local agencies. The Board of Directors is now asked to find all 35 local agencies eligible to continue to receive net Measure M2 revenues. Staff is also supportive of the City of Anaheim's request to restate its fiscal year 2018-19 expenditure report to remedy an audit finding and correct a miscategorized expenditure.

***Attachments***


- A. Measure M2 Eligibility Requirements and Submittal Schedule Summary, Fiscal Year 2019-20
- B. FY 2019-20 Measure M2 Eligibility Review of FY 2018-19 Expenditure Reports Summary

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